

**REMARKS**

Claims 1-18 and 20-63 are currently pending in the application. Claims 1-18 and 20-60 have been amended. Claim 19 has been canceled. New claims 61-63 have been added. Applicant respectfully submits that no new matter has been added. Reconsideration of the application as amended is respectfully requested.

Claims 18-19 stand rejected under 35 U.S.C. § 112, first paragraph, as failing to comply with the written description requirement. Claim 19 has been canceled, thus rendering the rejection thereof moot. Claim 18 has been amended to remove the feature of “the second time is at least equal to the first time” as suggested by the Examiner. Applicant respectfully requests that the 35 U.S.C. § 112 rejection of claim 18 be withdrawn.

Claim 48 stands rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. In response, Applicant has amended claim 48 to delete the term “may be” as suggested by the Examiner. Applicant respectfully requests that the 35 U.S.C. § 112 rejection of claim 48 be withdrawn.

Claims 1 and 44 stand rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 5,606,323 to Heinrich et al. (“Heinrich”).

Independent claim 1 relates to an identification device for receiving a first signal and transmitting a second signal. Applicant respectfully submits that Heinrich fails to disclose at least one of the distinguishing features of independent claim 1, namely, an integrated circuit having a state selection means for randomly or pseudo-randomly selecting whether the device is in a first state or a second state. In addition, Heinrich fails to disclose that relative to the second state, a relatively larger amount of a first current flows through a receiving means when the device is in the first state and relative to the first state, a relatively smaller amount of the first current flows through the receiving means when the device is in the second state.

Heinrich discloses a diode modulator. The diode modulator is controlled by a transponder electronic circuitry to conduct RF current from a second terminal to a first terminal of a RF transponder antenna in a first state of the transponder electronic circuitry and does not conduct appreciable current in a second state of the transponder electronic circuitry. In Heinrich, a diode is used as a variable load across an antenna. The diode is switched “on” and “off” at a data rate and changes a “reflection” coefficient of an antenna which is referred to as backscatter modulation. In contrast, the switching of the diode is not for the purpose of altering power consumption in a first state and a second state as claimed. In addition, claim 1 requires that a high current state (first state) and a low current state (second state) of the device is randomly or pseudo-randomly selected. Such a feature is not disclosed in Heinrich. Applicant respectfully requests that the 35 U.S.C. § 102(b) rejection of claim 1 be withdrawn.

Independent claim 44 relates to a system for identifying articles. Applicant respectfully submits that Heinrich fails to disclose at least one of the distinguishing features of independent claim 44, namely, an integrated circuit including a state selection means for randomly or pseudo-randomly selecting whether the device is in a first state or a second state. In addition, Heinrich fails to disclose that relative to the second state, a relatively larger amount of a first current flows through the receiving means when the device is in the first state and relative to the first state, a relatively smaller amount of the first current flows through the receiving means when the device is in the second state. For similar reasons to those stated above with respect to independent claim 1, Applicant respectfully submits that independent claim 44 also distinguishes over Heinrich. Applicant respectfully requests that the 35 U.S.C. § 102(b) rejection of claim 44 be withdrawn.

Claims 2-27, 33-36, 39-46, and 54-60 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Heinrich in view of U.S. Patent No. 6,525,648 to Kubler et al. (“Kubler”). Claim 19 has been canceled, thus rendering the rejection thereof moot.

Dependent claims 2-18 and 20-27, 33-36, and 39-43 depend from and further restrict independent claim 1 in a patentable sense. Dependent claims 45-46 and 54-60 depend from and

further restrict independent claim 44 in a patentable sense. Applicant respectfully submits that, for at least the reasons set forth above with respect to the rejection of independent claims 1 and 44, respectively, dependent claims 2-18 and 20-27, 33-36, 39-46, and 54-60 distinguish over Heinrich and are in condition for allowance. Kubler fails to cure the deficiencies of Heinrich noted above. Withdrawal of the rejection of dependent claims 2-18 and 20-27, 33-36, 39-46, and 54-60 is respectfully requested.

Claims 28-32, 37-38, and 47-53 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Heinrich in view of Kubler and further in view of U.S. Patent No. 5,970,398 to Tuttle (“Tuttle”). Dependent claims 28-32 and 37-38 depend from and further restrict independent claim 1 in a patentable sense. Dependent claims 47-53 depend from and further restrict independent claim 44 in a patentable sense. Applicant respectfully submits that, for at least the reasons set forth above with respect to the rejection of independent claims 1 and 44, respectively, dependent claims 28-32, 37-38, and 47-53 distinguish over Heinrich and are in condition for allowance. Kubler and Tuttle fail to cure the deficiencies of Heinrich noted above. Withdrawal of the rejection of dependent claims 2-27, 33-36, 39-46, and 54-60 is respectfully requested.

New claim 61 relates to a method for interrogating an identification device. Applicant respectfully submits that the cited references fail to disclose at least one of the distinguishing features of independent claim 61, namely, randomly or pseudo-randomly selecting a first or second state for an identification device, wherein a relatively larger amount of a first current flows through a receiving means when the device is in the first state and wherein a relatively smaller amount of the first current flows through the receiving means when the device is in the second state. For similar reasons to those stated above with respect to independent claims 1 and 44, Applicant respectfully submits that independent claim 61 is in condition for allowance.

New claims 62-63 depend from and further restrict independent claim 61 in a patentable sense. Applicant respectfully submits that, for at least the reasons set forth above, dependent claims 62-63 are also in condition for allowance.

In view of the above amendment, Applicant respectfully submits that the present application is in condition for allowance. A Notice to that effect is respectfully requested.

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Respectfully submitted,

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